

CITY OF SAN DIEGO
ADMINISTRATIVE REGULATION

SUBJECT ACCOUNTS RECEIVABLE – INVOICE PROCESSING AND COLLECTION	Number 63.30	Issue 5	Page 1 of 7
	Effective Date March 1, 2001		

1. PURPOSE

- 1.1 To ensure the timely referral of all delinquent receivables to the City Treasurer for collection.
- 1.2 To assure maximum collections in a timely manner of all monies due to the City.
- 1.3 To delineate the responsibilities of the concerned City Departments, City Treasurer, City Attorney and City Auditor and Comptroller.

2. SCOPE

- 2.1 Applies to all City departments administering programs involving the collection of monies, invoices, or any other receivables. For the purposes of this Administrative Regulation, a receivable shall be defined as any monetary obligation that may be paid, can be paid, or must be paid to the City.

3. BACKGROUND

- 3.1 The creation of receivables and preparation of new billings is the responsibility of the administering Department. Once a receivable is established, Departments are responsible for notifying the liable party of the amount and date due.
- 3.2 In all cases, the department responsible for the program for which a receivable is issued or monies are due remains accountable for maintaining those records supporting the validity of the receivable, even after the responsibility for collecting the receivable is transferred to another department for further collection action (e.g., City Treasurer or City Attorney).
- 3.3 In accordance with City Charter Section 45, the City Treasurer is authorized to demand and receive monies from any person indebted to the City and will maintain a continuous inspection in order to effectuate the collection of unpaid amounts.

(Supercedes Administrative Regulation 63.30, Issue 4, effective September 1, 1988)

Authorized

(Signed by Ed Ryan)

(Signed by Casey Gwinn)

(Signed by Michael T. Uberuaga)

CITY AUDITOR & COMPTROLLER

CITY ATTORNEY

CITY MANAGER

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4. RESPONSIBILITIES

4.1 All departments that issue invoices, billings or otherwise create receivables are responsible for:

- a. Maintaining appropriate records to support the validity of all charges.
- b. Collecting outstanding invoices or receivables prior to referral to City Treasurer's Collection Division (Treasurer's Collection).
- c. Ensuring department invoices, statements, or other billings include notification to the responsible party of the following
 1. That the amount may be referred to the City Treasurer for collection if not paid by the date due.
 2. That upon referral to the City Treasurer for collection there may be additional fees and interest charged.
 3. "As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if the amount is not paid by the date due." (Required by California Civil Code section 1785.)
- d. Exercising the City's rights under the Returned Check-Punitive Damage Laws (Section 1719 of the California Civil Code) immediately upon return of a check unpaid by either:
 1. Sending the Returned Check Letter (see attachment) by certified mail to the maker of such check. The Return Receipt must be retained and forwarded to Treasurer's Collection along with the original returned check, if it is not redeemed within 30 days, or
 2. Referring the returned check to Treasurer's Collection.
- e. Referring all delinquent or problem receivables to Treasurer's Collection within 30 days of due date (or other time frame as approved by the City Treasurer), along with supporting documents and relevant data to initiate collection measures. A receivable is delinquent if full payment, plus all interest and penalties, has not been received by the due date.

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- 4.2 The Auditor Comptroller is responsible for writing off those invoices or other receivables deemed uncollectible by the City Treasurer.
- 4.3 The City Treasurer is responsible for:
- a. Maintaining a master file of all delinquent amounts referred to Treasurer's Collection.
 - b. Collecting all delinquent monies owed the City, with the exception of those referred via Treasurer's Collection to the City Attorney's Office or those placed on hold with the approval of the City Manager pursuant to Section 6.4 of this AR.
 - c. Filing Small Claims court actions and Bankruptcy Proof of Claim's; referring receivables to the City Attorney's Office; and preparing routine Court documents in collection cases under the direction and supervision of the City Attorney.
 - d. Representing the City as plaintiff in Small Claims Court.
 - e. Requesting write-offs through the Auditor's Office.
 - f. Representing the City, as its agent, in dealing with outside collection agencies.
 - g. Maintaining a master file of the status of all delinquent receivables referred to the City Attorney or outside collection agencies.
 - h. Advising departments of the final disposition of receivables referred to Treasurers Collection.
 - i. Submitting a quarterly report to the City Attorney listing all unresolved receivables referred to the City Attorney and requesting a status update on each.
 - j. Submitting to the Auditor Comptroller by July 31 of each year a summary report of prior fiscal year collection system accounting transaction activity (beginning balance, additions, payments, cancellations, write-offs and ending balances) and a list of prior fiscal year end outstanding balances summarized by fund.

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4.4 The City Attorney is responsible for:

- a. Filing and prosecuting civil complaints on those delinquent receivables in excess of the Small Claims Court jurisdiction which are deemed legally collectible by the City Attorney's Office and where attachable assets have been identified by Treasurer's Collection.
- b. Returning promptly to Treasurer's Collection any receivables determined to be uncollectible so that the City Treasurer may request write-off through the Auditor's Office.
- c. Providing Treasurer's Collections with the status of each account listed in the quarterly report provided by Treasurer's Collection of all receivables referred to the City Attorney. The status information will be provided within 30 days of receipt of the report.

5. PROCEDURE

Responsibility

Action

Risk Management Department	5.1	Issues invoice for personnel and or property damages as soon as a determination is made as to liability.
Other City Departments	5.2	Issues invoice or billing when monies are owed.
	5.3	Refers amounts invoiced by the ARIS to the Treasurer's Collections within a time frame approved by the City Treasurer.
Auditor	5.4	Automatically refers to Treasurer's Collections all Account Receivable Information System (ARIS) invoices that are still delinquent ten (10) days after the due date.
All City Departments	5.5	Maintain records and source documents proving the validity of the charges billed or invoiced.
City Treasurer	5.6	Pursues all appropriate actions to collect delinquent amounts referred.

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- 5.7 Refers delinquent receivables to the City Attorney or outside collections agencies, or to the City Auditor for write-off, as appropriate.
- 5.8 Files proof of claims and makes court appearances, when appropriate, in bankruptcy cases.
- 5.9 Places hold on collection activity when requested, as provided in section 6.4, and follows up to confirm status of hold every 30 days.
- 5.10 Submits a quarterly report to the City Attorney of all unresolved receivables referred by Treasurer's Collection to the City Attorney and requests a status update on each.
- 5.11 Submits to the Auditor Comptroller by July 31 of each year a summary report of the prior fiscal year collection accounting transaction activity and a list of prior fiscal year-end outstanding balances summarized by fund.
- City Attorney 5.12 Providing Treasurer's Collections with the status of each account listed in the quarterly report provided by Treasurer's Collection of all receivables referred to the City Attorney.

6. MISCELLANEOUS

6.1 Payment Arrangement and Time Extensions

Unless authorized by the City Charter, ordinance, resolution, agreement, the City Attorney, the City Manager, or a non-managerial department head, payment arrangements or time extensions shall not be granted to any individual or entity, nor shall the amount of payment, interest or penalty be waived. The City Treasurer shall approve or establish payment schedules for delinquent receivables.

6.2 Write-Offs

Only the City Treasurer is authorized to request write-off of receivables through the City Auditor and Comptroller. An unpaid amount or receivable balance shall be written off only when all apparent collection efforts have been exhausted and the amount is determined to be uncollectible by Treasurer's Collection.

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6.3 Bankruptcies

Immediately upon receipt of a bankruptcy notice, the administering department shall forward the bankruptcy account to Treasurer's Collection, along with the Notice of Bankruptcy and supporting documentation and data. Treasurer's Collection will file a Proof of Claim and make court appearances, if appropriate. Immediately upon receipt, all subsequent notices should be forwarded to the City Treasurer.

6.4 Placing Receivables on Collection "Hold"

Delinquent receivables involving lengthy or complex negotiations may, upon referral to Treasurer's Collection, be excluded from normal collection activity, providing the Treasurer is notified to "hold collection activity" via a memo through the office of the City Manager, or non-managerial department head, at which point Treasurer's Collection would be relieved of the responsibility for collection of that account. The City Treasurer will confirm the status of all holds every thirty days.

6.5 Referrals to City Attorney

Only the City Treasurer is authorized to refer delinquent receivables to the City Attorney.

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APPENDIX

Legal References

City Charter Section 45, the City Treasurer
California Civil Code Section 1719, Bad Checks
California Civil Code Section 1785.1-1785.8, Consumer Credit Reporting

Forms Involved

Returned Check Letter (attached)

Subject Index

Account Receivable Processing
Delinquent Bill Processing
Returned Checks

Administering Department

City Treasurer



THE CITY OF SAN DIEGO

[Date]

[Check maker name]

[Check maker address]

Dear [Check maker name]:

Re: Returned Check Number [Number]

Reason for return - [NSF, Account closed, etc}

Your check has been returned by your bank unpaid. Failure to redeem this returned check may compel us to enforce California Civil Code section 1719, a copy of which is enclosed. To avoid treble damages in accordance with this section, you must remit the following amount within 30 days of the date of this notice.

Check Amount	[\$[Check amount]
Returned check service charge	\$ 20.00
Certified mail cost	\$ [Mail cost]
Total due	\$ [Total]

Please make payment by certified funds, money order, or if delivered in person, cash. Checks may not be accepted on returned items. As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to resolve this matter immediately.

Sincerely

[Sender's name]

[Sender's title]

Attachment



Collection Division • Office of the City Treasurer

1010 Second Avenue, Sixth Floor, West Wing • San Diego, CA 92101-4904

P.O. Box 129039 • San Diego, CA 92112-9039

Tel (619) 744-3100 Fax (619) 533-3840



CALIFORNIA CIVIL CODE section 1719

(a) (1) Notwithstanding any penal sanctions that may apply, any person who passes a check on insufficient funds shall be liable to the payee for the amount of the check and a service charge payable to the payee for an amount not to exceed twenty-five dollars (\$25) for the first check passed on insufficient funds and an amount not to exceed thirty-five dollars (\$35) for each subsequent check to that payee passed on insufficient funds.

(2) Notwithstanding any penal sanctions that may apply, any person who passes a check on insufficient funds shall be liable to the payee for damages equal to treble the amount of the check if a written demand for payment is mailed by certified mail to the person who had passed a check on insufficient funds and the written demand informs this person of (A) the provisions of this section, (B) the amount of the check, and (C) the amount of the service charge payable to the payee. The person who had passed a check on insufficient funds shall have 30 days from the date the written demand was mailed to pay the amount of the check, the amount of the service charge payable to the payee, and the costs to mail the written demand for payment. If this person fails to pay in full the amount of the check, the service charge payable to the payee, and the costs to mail the written demand within this period, this person shall then be liable instead for the amount of the check, minus any partial payments made toward the amount of the check or the service charge within 30 days of the written demand, and damages equal to treble that amount, which shall not be less than one hundred dollars (\$100) nor more than one thousand five hundred dollars (\$1,500). When a person becomes liable for treble damages for a check that is the subject of a written demand, that person shall no longer be liable for any service charge for that check and any costs to mail the written demand.

(3) Notwithstanding paragraphs (1) and (2), a person shall not be liable for the service charge, costs to mail the written demand, or treble damages if he or she stops payment in order to resolve a good faith dispute with the payee. The payee is entitled to the service charge, costs to mail the written demand, or treble damages only upon proving by clear and convincing evidence that there was no good faith dispute, as defined in subdivision (b).

(4) Notwithstanding paragraph (1), a person shall not be liable under that paragraph for the service charge if, at any time, he or she presents the payee with written confirmation by his or her financial institution that the check was returned to the payee by the financial institution due to an error on the part of the financial institution.

(5) Notwithstanding paragraph (1), a person shall not be liable under that paragraph for the service charge if the person presents the payee with written confirmation that his or her account had insufficient funds as a result of a delay in the regularly scheduled transfer of, or the posting of, a direct deposit of a social security or government benefit assistance payment.

(6) As used in this subdivision, to "pass a check on insufficient funds" means to make, utter, draw, or deliver any check, draft, or order for the payment of money upon any bank, depository, person, firm, or corporation that refuses to honor the check, draft, or order for any of the following reasons:

(A) Lack of funds or credit in the account to pay the check.

(B) The person who wrote the check does not have an account with the drawee.

(C) The person who wrote the check instructed the drawee to stop payment on the check.

(b) For purposes of this section, in the case of a stop payment, the existence of a "good faith dispute" shall be determined by the trier of fact. A "good faith dispute" is one in which the court finds that the drawer had a reasonable belief of his or her legal entitlement to withhold payment. Grounds for the entitlement include, but are not limited to, the following: services were not rendered, goods were not delivered, goods or services purchased are faulty, not as promised, or otherwise unsatisfactory, or there was an overcharge.

(c) In the case of a stop payment, the notice to the drawer required by this section shall be in substantially the following form:

NOTICE

To: _____
(name of drawer)

_____ is the payee of a check you wrote
(name of payee)

for \$ _____ The check was not paid because
(amount)

you stopped payment, and the payee demands payment. You may have a good faith dispute as to whether you owe the full amount. If you do not have a good faith dispute with the payee and fail to pay the payee the full amount of the check in cash, a service charge of an amount not to exceed twenty-five dollars (\$25) for the first check passed on insufficient funds and an amount not to exceed thirty-five dollars (\$35) for each subsequent check passed on insufficient funds, and the costs to mail this notice within 30 days after this notice was mailed, you could be sued and held responsible to pay at least both of the following:

(1) The amount of the check.

CALIFORNIA CIVIL CODE section 1719 (cont.)

(2) Damages of at least one hundred dollars (\$100) or, if higher, three times the amount of the check up to one thousand five hundred dollars (\$1,500).

If the court determines that you do have a good faith dispute with the payee, you will not have to pay the service charge, treble damages, or mailing cost. If you stopped payment because you have a good faith dispute with the payee, you should try to work out your dispute with the payee. You can contact the payee at:

(name of payee)

(street address)

(telephone number)

You may wish to contact a lawyer to discuss your legal rights and responsibilities.

(name of sender of notice)

(d) In the case of a stop payment, a court may not award damages or costs under this section unless the court receives into evidence a copy of the written demand that, in that case, shall have been sent to the drawer and a signed certified mail receipt showing delivery, or attempted delivery if refused, of the written demand to the drawer's last known address.

(e) A cause of action under this section may be brought in small claims court by the original payee, if it does not exceed the jurisdiction of that court, or in any other appropriate court. The payee shall, in order to recover damages because the drawer instructed the drawee to stop payment, show to the satisfaction of the trier of fact that there was a reasonable effort on the part of the payee to reconcile and resolve the dispute prior to pursuing the dispute through the courts.

(f) A cause of action under this section may be brought by a holder of the check or an assignee of the payee. A proceeding under this section is a limited civil case. However, if the assignee is acting on behalf of the payee, for a flat fee or a percentage fee, the assignee may not charge the payee a greater flat fee or percentage fee for that portion of the amount collected that represents treble damages than is charged the payee for collecting the face amount of the check, draft, or order. This subdivision shall not apply to an action brought in small claims court.

(g) Notwithstanding subdivision (a), if the payee is the court, the written demand for payment described in subdivision (a) may be mailed to the drawer by the court clerk. Notwithstanding subdivision (d), in the case of a stop payment where the demand is mailed by the court clerk, a court may not award damages or costs pursuant to subdivision (d), unless the court receives into evidence a copy of the written demand, and a certificate of mailing by the court clerk in the form provided for in subdivision (4) of Section 1013a of the Code of Civil Procedure for service in civil actions. For purposes of this subdivision, in courts where a single court clerk serves more than one court, the clerk shall be deemed the court clerk of each court.

(h) The requirements of this section in regard to remedies are mandatory upon a court.

(i) The assignee of the payee or a holder of the check may demand, recover, or enforce the service charge, damages, and costs specified in this section to the same extent as the original payee.

(j) (1) A drawer is liable for damages and costs only if all of the requirements of this section have been satisfied.

(2) The drawer shall in no event be liable more than once under this section on each check for a service charge, damages, or costs.

(k) Nothing in this section is intended to condition, curtail, or otherwise prejudice the rights, claims, remedies, and defenses under Division 3 (commencing with Section 3101) of the Commercial Code of a drawer, payee, assignee, or holder, including a holder in due course as defined in Section 3302 of the Commercial Code, in connection with the enforcement of this section.